IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 2054 of 2005

Between:

Sanjeev Kumar, s/o Late Shyam Sunder,
R/o H.No. 3-4-10/3, Lingampally, Hyderabad, (Sc.No.
H 3001463, in the name of V.P. Ranga Rao).

..... PETITIONER

AND

1 Transmission Corporation of A.P. Limited, (A.P. TRANSCO),
Rep. by its Chief Managing Director,
Vidyut Soudha, Khairatabad, Hyderabad.
2 The Assistant Divisional Engineer, Distribution -7, City - II,
The Central Distribution Company
of A.P. Limited, Azamabad, Hyderabad.
3 The Inspector of Police, A.P.T.S. Team - II,
Vidyut Soudha, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the provisional assessment notice in letter No. ADE/Op/Dist-VII/City-II/BKP/HYD/D.No. 135/04-05, dated 26-11-2004 of the 2nd respondent as highly illegal, arbitrary, unjust and contrary to Section 126 of the Electricity Act, 2003 and consequently set aside the same.

Counsel for the Petitioner:MR.D.V.NAGARJUNA BABU

Counsel for the Respondents: MR.V.AJAY KUMAR, STANDING COUNSEL FOR A.P.TRANSCO.

The Court at the admission stage made the following :

ORDER:

The petitioner is a domestic consumer of electricity. Inspection was conducted on 19.11.2004 by the Vigilance staff of the respondents. On noticing certain irregularities, the second respondent issued an order of provisional assessment dated 26.11.2004 and served it on the petitioner on 7.02.2005, alleging that the petitioner resorted to pilferage of power assessed to Rs.3,07,602/-, and that he shall have to pay a sum of Rs.1,53,801/- in case, he wants continuance of power supply. The petitioner challenges the same.

Heard the learned counsel for the petitioner and learned Standing Counsel for the respondents.

Petitioner is served with an order of provisional assessment. This is to be followed by a show cause notice. Thereafter, an order of final assessment has to be passed by the competent authority, duly taking into account the explanation that may be submitted by the petitioner, and holding such enquiry as is necessary. The actual liability of a consumer to pay any amount, on the allegations of pilferage, would arise only when an order of final assessment is passed. The disconnection of power supply on the ground that the amount indicated in the order of provisional assessment is not paid, was held to be illegal by a Division Bench of this Court in its order in W.A.Nos.452 and 477 of 2004. It was held that the order of provisional assessment is almost in the form of a show cause notice, and no liability can be fastened on a consumer, on the basis of such proceedings.

Following the same, the writ petition is allowed directing that the respondents shall restore the power supply to the petitioner, without insisting on payment of any amount shown in the order of provisional assessment. The power supply shall be continued, as long as the petitioner pays the actual consumption charges. The petitioner would be liable to pay any amount towards the value of pilfered energy, only after an order of final assessment is passed. There shall be no order as to costs.

8th February, 2005

Note : Issue copy by tomorrow.

(B/O)
PAN

Sd/-

Assistant Registrar

To

1. The Chief Manager Director, Transmission Corporation of A.P. . Limited, (A.P. TRANSCO),
Vidyut Soudha, Khairatabad, Hyderabad.
2 The Assistant Divisional Engineer, Distribution -7, City - II,
The Central Distribution Company
of A.P. Limited, Azamabad, Hyderabad.
3 The Inspector of Police, A.P.T.S. Team - II,
Vidyut Soudha, Hyderabad.

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